

### **REMARKS**

Reconsideration of the present application is respectfully requested. Claims 6, 11, 12, 15 and 21 have been amended. Claims 6 – 21 are currently pending.

The present application was discussed at an applicant-initiated interview with the Examiner on August 11, 2006. Applicants thank the Examiner for agreeing to the interview, and the present amendments reflect the amendments discussed at the interview.

### **Rejections based on 35 U.S.C. § 103(a)**

Claims 6 – 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Davis, *et al.*, U.S. Patent No. 6,125,064 (“Davis”). Applicants have amended independent claims 6 and 11 in response to this rejection. Applicants respectfully submit that Davis does not teach or suggest a sender node being configured to “generate a plurality of irregular time intervals as a function of a current level of ambient network traffic” and configured to inform “said receiver node of a schedule defining the plurality of irregular time intervals at which the at least one sender node will send subsequent reports to the receiver node,” as required by amended independent claim 6. Similarly, Davis does not teach or suggest receiving from a sender “data indicative of a plurality of irregular time intervals at which one or more reports are scheduled to be sent, wherein said plurality of irregular time intervals are generated based on a function of a current level of ambient network traffic,” as required by amended independent claim 11.

Davis teaches techniques for controlling communications between endpoints in a packet-switched computer network. Davis, Abstract. Davis utilizes several protocols for controlling data packets at the transport or transmission layer. Col. 5, ll. 41 – 44. These protocols use dynamic window sizing or dynamic packet metering techniques in response to changing network conditions. Col. 5, ll. 44 – 48. When data is ready to be sent, two packets are

placed on the network, and the interpacket gap is measured at a receiving endpoint. Col. 5, ll. 58 – 65. The receiving endpoint can thus monitor the network conditions and report such conditions back to the sending node. Col. 6, ll. 15 – 21. So it is the receiving node that measures the time gaps between received packets, and these gaps are then reported back to the sending node. *See, e.g.,* FIG. 2. Based on the reported network conditions, the sending node can dynamically alter the window sizing and/or packet metering. Col. 6, ll. 22 – 37. In sum, Davis provides techniques for dynamically responding to network conditions when sending packets over a network.

Davis transmits packets at intervals based on network conditions, not based on a function of a current level of ambient network traffic. Nowhere does Davis contemplate a sending node scheduling irregular time intervals for packet transmissions with reference to the level of ambient network traffic. Further, Davis does not schedule the intervals upon which subsequent packets will be sent to the receiving node.

In contrast, independent claim 6, as amended, requires a sender node being configured to “generate a plurality of irregular time intervals as a function of a current level of ambient network traffic” and configured to inform “said receiver node of a schedule defining the plurality of irregular time intervals at which the at least one sender node will send subsequent reports to the receiver node.” Similarly, independent claim 11, as amended, requires “receiving from the sender data indicative of a plurality of irregular time intervals at which one or more reports are scheduled to be sent, wherein said plurality of irregular time intervals are generated based on a function of a current level of ambient network traffic.” Davis teaches reacting to network conditions and does not teach generating a plurality of irregular time intervals based “on a function of a current level of ambient network traffic.” Further, Davis does not transmit

reports to inform the receiving node of a schedule of the irregular time “intervals at which the at least one sender node will send subsequent reports to the receiver node.” Accordingly, Applicants respectfully submit that independent claims 6 and 11 are in condition for allowance.

Applicants further submit that dependent claims 7 - 10, which depend from claim 6, are in condition for allowance for at least the same reasons discussed above with respect to claim 6. Applicants further submit that dependent claims 12 - 21, which depend from claim 11, are in condition for allowance for at least the same reasons discussed above with respect to claim 11.

### Conclusion

For the reasons stated above, claims 6 – 21 are now in condition for allowance. If any issues remain which would prevent issuance of this application, the Examiner is urged to contact the undersigned prior to issuing a subsequent action. The Commissioner is hereby authorized to charge any additional amount required, or credit any overpayment, to Deposit Account No. 19-2112.

Respectfully submitted,

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